



Public Notice

**US Army Corps
of Engineers**
Louisville District

Public Notice No.

200400339

Date:

9 Jul 04

Closing Date:

7 Aug 04

Please address all comments and inquiries to:

U.S. Army Corps of Engineers, Louisville District

ATTN: Ms. Pam Loeffler, CELRL-OP-FS

P.O. Box 59

Louisville, Kentucky 40201-0059

Phone: (502) 315-6693

This notice announces an application submitted for a Department of the Army (DA) Permit, subject to Section 404 of the Clean Water Act (CWA)

APPLICANT: May Commercial Group, Incorporated
121 Prosperous Place, Suite 6-B
Lexington, Kentucky 40509

AGENT: Woolpert LLP
4141 Rosslyn Drive
Cincinnati, Ohio 45209-1183

LOCATION: An unnamed perennial tributary of Dry Creek on the west side of State Highway 55, approximately 10 miles south of Shelbyville, in Shelby County, Kentucky

Latitude: 38-12-26.9434
Longitude: 85-15-56.4408
7.5 Minute Quad: Simpsonville, KY

PURPOSE: To facilitate commercial development of a 24-acre parcel of land

DESCRIPTION OF WORK: The applicant proposes to fill 1350 linear feet of an unnamed perennial tributary of Dry Run to facilitate site preparation for development of the 24-acre parcel. The site currently exhibits old-field upland habitat, with a narrow woody riparian corridor along the stream. The site would be graded and onsite material consisting primarily of shale would be redistributed to fill the stream, utilizing approximately 195 cubic yards (CY) of the native material to raise the elevation by 20 feet over the streambed. An additional 1611 CY would be required to raise the elevation of the floodplain area.

MITIGATION: Mitigation for the stream impact would be done onsite, by relocating the stream to the south of its current location. Approximately 1575 linear feet of stream channel would be constructed to mimic the existing channel, including its floodplain and riparian corridor. Attention would be paid to riffle complexes as well as meanders, as these features are present in the existing stream. A large floodplain would be designed to prevent entrenchment, reduce channel velocity, improve water quality, and allow for quality riparian habitat. The outsides of bends would be armored at the toe with rock and in-stream flow diversion structures such as stream barbs and J-hook weirs would be utilized as well. A riparian buffer would be created along the new channel for a width of approximately 50 feet on each side. The corridor would be seeded with a native grass mixture and revegetated with live stakes of appropriate woody species.

It is noted that this proposed mitigation plan is open to comment and subject to change. The Corps will make a determination of appropriate mitigation, upon review of all submitted information.

REVIEW PROCEDURES: A DA Permit cannot be issued if any legally required Federal, State, or local authorization or certification is denied. A DA Permit, if otherwise warranted, will not be issued until a State of Kentucky Water Quality Certification or waiver is on file at this office. In order to comply with Section 401 of the Clean Water Act, the applicant, by this notice, hereby applies for State certification from the Kentucky Natural Resources and Environmental Protection Cabinet Division of Water (KDOW).

Copies of this notice are sent to the appropriate Federal and State Fish and Wildlife Agencies. Their views and comments are solicited in accordance with the Fish and Wildlife Coordination Act of 1956. Based on available information, the proposed activity will not destroy or endanger any Federally-listed threatened or endangered species or their critical habitats, as identified under the Endangered Species Act, and therefore, initiation of formal consultation procedures with the U.S. Fish and Wildlife Service is not planned at this time.

Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider this application. A request for a public hearing must state the specific interest that might be damaged by issuance of the DA Permit.

The National Register of Historic Places has been examined, and it has been determined that there are no properties currently listed on the Register which would be directly affected by the proposed work. If we are made aware, as a result of comments received in response to this notice, or by other means, of specific archaeological, scientific, pre-historical, or historical sites or structures which might be affected by the proposed work, the District Engineer will immediately take the appropriate action necessary pursuant to the National Historic Preservation Act of 1966 - Public Law 89-665 as amended (including Public Law 96-515).

The decision whether to issue a permit will be based on an evaluation of the probable impact of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered; among those are conservation, economics, aesthetic values, general environmental concerns, historic values, fish and wildlife values, flood damage prevention, land use, navigation, recreation, water supply, water quality, energy needs, safety, food production, and in general, the needs and welfare of the public. In addition, the evaluation of the impact of the activity on the public interest will include application of the guidelines (40 CFR

Operations Division
Regulatory Branch (South)
ID No. 200400339-pjl

Part 230) promulgated by the Administrator, United States Environmental Protection Agency, under authority of Section 404(b) of the CWA.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Written statements received in this office on or before the closing date will become a part of the official record and will be considered in the determination on this permit request. Any objections that are received during this period will be forwarded to the applicant for possible resolution before the determination is made whether to issue or deny the requested DA Permit. A permit will be granted unless its issuance is found to be contrary to the public interest.

Information pertaining to this application is available for public examination during normal business hours upon prior request. All comments regarding this proposal should be addressed to Ms. Pam Loeffler, CEORL-OP-FS at the address noted above and should refer to the Public Notice Number 200400339.